

STATE OF CALIFORNIA
ENVIRONMENTAL PROTECTION AGENCY
DEPARTMENT OF TOXIC SUBSTANCES CONTROL

In the Matter of:

Dillard Trucking, Inc.,
dba Dillard Environmental Services
3120 Camino Diablo
Byron, California 94514

CAD 982523433

Respondent.

Docket HWCA 20033048

CONSENT ORDER

Health and Safety Code
Section 25187

INTRODUCTION

1.1. Parties. The California Department of Toxic Substances Control (Department) and Dillard Trucking, Inc., doing business as Dillard Environmental Services, a California Corporation (Respondent) enter into this Consent Order (Order) and agree as follows:

1.2. Inspection. The Department inspected the Site on August 21, 2003.

1.3. Authorization Status. The Department authorized Respondent to transport hazardous waste by Hazardous Waste Transporter Registration No. 1715. Respondent holds a current transporter registration dated March 17, 2005 and has an expiration date of March 31, 2006. Respondent first became a registered hazardous waste transporter in 1985. Respondent does not have a permit to store or treat hazardous waste.

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1.4. Jurisdiction. Health and Safety Code section 25187, authorizes the Department to order action necessary to correct violations and to assess a penalty when the Department determines that any person has violated specified provisions of the Health and Safety Code or any permit, rule, regulation, standard, or requirement issued or adopted pursuant thereto.

1.5. Full Settlement. By their respective signatures below, the Parties, and each of them, agree that this Order, and all of the terms contained herein, are fair, reasonable, and in the public interest. This Order shall constitute full settlement of the violations alleged below. By agreeing to this Order, the Department does not waive any right to take further enforcement actions within its jurisdiction and involving either the Respondent(s) or the Site, except to the extent provided in this Order.

1.6. Hearing. Respondent waives any and all rights to a hearing in this matter.

VIOLATIONS ALLEGED

2. The Department alleges the following violation:

2.1.1. Respondent violated Health and Safety Code section 25201, subdivision (a), and California Code of Regulations, title 22, section 66263.18, in that, on or about June 12, 2003, through June 20, 2003, Respondent stored hazardous waste at an unauthorized location (Hoyt Transportation's yard) without a hazardous waste facility permit or other grant of authorization from the Department.

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SCHEDULE FOR COMPLIANCE

3. Respondent shall comply with the following:

3.1.1. Effective immediately, Dillard Environmental Services shall comply with the provisions of Health and Safety Code section 25201, subdivision (a), and California Code of Regulations, title 22, section 66263.18, the transfer station exemption, by ensuring that hazardous wastes in its custody or control are not stored at any one location longer than 10 days, unless otherwise authorized by regulation.

3.1.2. Respondent shall comply with all terms, requirements, and conditions set forth in Section 5 (Penalty) below.

3.2. Submittals. All submittals from Respondent pursuant to this Consent Order shall be sent to:

Paul S. Kewin, Section Chief
Statewide Compliance Division
Department of Toxic Substances Control
8800 Cal Center Drive
Sacramento, California 95826-3200

3.3. Communications. All approvals and decisions of the Department made regarding such submittals and notifications shall be communicated to Respondent in writing by the Branch Chief, Department of Toxic Substances Control, or his/her designee. No informal advice, guidance, suggestions, or comments by the Department regarding reports, plans, specifications, schedules, or any other writings by Respondent shall be construed to relieve Respondent of its obligation to obtain such formal approvals as may be required.

3.4. Liability. Nothing in this Order shall constitute or be construed as a satisfaction or release from liability for any conditions or claims arising as a result of past, current, or future operations of Respondent, except as provided in this Order. Notwithstanding compliance with the terms of this Order, Respondent may be required to take such further actions as are necessary to protect public health or welfare, or the environment.

3.5. Government Liabilities. Neither the State of California nor the Department shall be liable for injuries or damages to persons or property resulting from acts or omissions by Respondent, or related parties in carrying out activities pursuant to this Order. Neither the State of California nor the Department shall be held as a party to any contract entered into by Respondent or its agents in carrying out activities pursuant to the Order.

OTHER PROVISIONS

4.1. Penalties for Noncompliance. Failure to comply with the terms of this Order may subject Respondent to costs, penalties and/or damages, as provided by Health and Safety Code section 25188, and other applicable provisions of law.

4.2. Parties Bound. This Order shall apply to and be binding upon Respondent and its officers, directors, agents, employees, contractors, consultants, receivers, trustees, successors, and assignees, including but not limited to individuals, partners, and subsidiary and parent corporations, and upon the Department and any successor agency that may have responsibility for and jurisdiction over the subject matter of this Order.

4.4. Time Periods. "Days" for the purpose of this Order means calendar days.

4.5. Integration. This agreement constitutes the entire agreement between the parties and may not be amended, supplemented, or modified, except as provided in this Order.

PENALTY

5.1. Respondent shall pay the Department the total sum of \$6,500, which includes \$3,000 as reimbursement of the Department's costs incurred in connection with this matter.

5.2. Payment is due within 15 days from the effective date of this Order.

5.3. Respondent's check(s) shall be made payable to Department of Toxic Substances Control, shall identify the Respondent and Docket Number, as shown in the caption of this case, and shall be delivered together with the attached Payment Voucher to:

Department of Toxic Substances Control
Accounting Office
1001 I Street, 21st floor
P. O. Box 806
Sacramento, California 95812-0806

A photocopy of the check(s) shall be sent to:

Paul S. Kewin, Section Chief
Statewide Compliance Division
Department of Toxic Substances Control
8800 Cal Center Drive
Sacramento, California 95826-3200

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5.4. If Respondent fails to make payment as provided above, Respondent agrees to pay interest at the rate established pursuant to Health and Safety Code section 25360.1, and to pay all costs incurred by the Department in pursuing collection including attorney's fees.

EFFECTIVE DATE

6. The effective date of this Order is the date it is signed by the Department.

Dated: November 28, 2005

Original signed by Melissa Roach
Dillard Trucking, Inc.,
dba Dillard Environmental Services
Respondent

Dated: November 30, 2005

Original signed by Paul S. Kewin
Paul S. Kewin, Section Chief
Statewide Compliance Division
Department of Toxic Substances Control

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